

Abenicio Cisneros [SBN 302765]
Law Offices of Abenicio Cisneros
2443 Fillmore St. #380-7379
San Francisco, CA 94115
707-653-0438
acisneros@capublicrecordslaw.com

Attorneys for Petitioner ADRIAN RISKIN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

ADRIAN RISKIN,

Petitioner,

vs.

LARCHMONT VILLAGE PROPERTY
OWNERS ASSOCIATION,

Respondent.

) Case No.: BS172934

) **CHARGING AFFIDAVIT IN SUPPORT OF**
) **PETITIONER'S EX PARTE**
) **APPLICATION FOR ORDER TO SHOW**
) **CAUSE RE: CONTEMPT**

) Department: 82
) Judge: Hon. Mary H. Strobel
) Petition Filed: March 20, 2019
) Hearing on Petition: June 4, 2019
) Ex Parte Requested Hearing Date: October 15,
) 2019 (continued from September 16, 2019)

) TELEPHONE APPEARANCE

In support of this application, I, Abenicio Cisneros, submit the following charging affidavit in support of Petitioner's Ex Parte Application for Order to Show Cause re: Contempt:

1. I am an attorney licensed to practice before all the courts of the State of California. I am a solo practitioner and the sole attorney of the Law Offices of Abenicio Cisneros. I am the attorney of record for Petitioner Adrian Riskin ("Petitioner") in this matter.
Respondent, in the person of its President Tom Kneafsey, should be held in contempt
2. Respondent, in the person of its Board President Tom Kneafsey, should be held in contempt of this Court's June 17, 2019, order. The elements of contempt – a valid order, Respondent's knowledge of the order, the ability of Respondent to comply, and Respondent's willful failure to comply – have been met.

- 1 3. **The Court issued a valid order.** On June 17, 2019, this Court found that the BID failed to
2 conduct adequate searches for records in response to Petitioner's California Public Records Act
3 requests. The Court directed the BID to conduct new searches and to produce any non-exempt
4 records it located in response to Petitioner's Request 1.1 (emails between the BID—either staff of
5 Board—and the City of Los Angeles and/or the Los Angeles Police Department sent or received
6 from January 1, 2016, to March 31, 2017), Request 1.2 (minutes from three BID board meetings
7 held October 13, 2014, October 15, 2015, and October 12, 2016), Request 2.1 (agendas for BID
8 board meetings held in 2014), Request 2.2 (internal BID emails relating to the operation of the
9 BID from October 2016), and Request 3.1 (all materials distributed at the BID's May 2017
10 Board meeting). *See Exhibit A of the Declaration of Abenicio Cisneros ("Cisneros Decl")*
11 *served herewith*. The Court's Order is valid.
- 12 4. **Respondent has knowledge of the Court's order.** First Respondent was represented by
13 counsel at the June 4, 2019, hearing at which the Court adopted its tentative ruling as the order
14 of the Court. *Cisneros Decl. Exhibit A*. Second, Petitioner served Respondent with notice of
15 entry of the Order on June 18, 2019 and filed proof of such service with the Court on June 19,
16 2019. (*Id.*) Third, Respondent (via its counsel) has repeatedly communicated with Petitioner's
17 counsel regarding the Order, demonstrating knowledge. *Cisneros Decl. Exhs. C*. Fourth,
18 Respondent's counsel appeared at the September 16, 2019, ex parte hearing on Petitioner's
19 application to show cause re: contempt concerning Respondent's failure to comply with the
20 Court's order, further demonstrating knowledge. *Cisneros Decl. Ex. B*.
- 21 5. **The Court's order required Respondent to take actions within its control.** The Court
22 ordered Respondent's board and staff to conduct a search for records in their possession. The
23 individuals—board and staff—that make up the BID have the ability to search for records they
24 possess. Thus, the Court's order required Respondent to take actions within its control.
- 25 6. **Respondent has willfully failed to comply with the Court's order.** Respondent has been on
26 notice of the Court's order since June 18, 2019. In the 110 days that have passed, the BID has
27 failed to produce even a single record or provide any proof that it conducted even a single
28

1 search in response to the Court's Order. At the September 16, 2019, hearing in this matter, the
2 Court admonished Respondent that Respondent's counsel's vague verbal representations that he
3 spoke with someone who indicated no records were found was insufficient to show compliance.
4 *Cisneros Decl.* ¶ 5. The Court directed Respondent to provide declarations detailing the
5 searches for records it undertook to comply with the Court's order. *Cisneros Decl. Ex. B.*
6 Petitioner informed Respondent that if it provided those declarations by close of business on
7 Friday, October 4, that Petitioner would agree to stop ceasing an order to show cause re:
8 contempt. *Cisneros Decl.* ¶ 12. Respondent failed to provide those records. Respondent's failure
9 to provide declarations detailing compliance, along with its failure to provide any records
10 subsequent to the Court's order despite evidence the Court credited to find that responsive
11 records exist which were not produced, lead to a clear conclusion: Respondent has willfully
12 failed to comply with the Court's order.

13 7. As such, this Court should issue an order to show cause why Respondent, in the person of it's
14 Board President Tom Kneafsey, should not be held in contempt.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct of my own personal knowledge. Executed this 7th day of October 2019 at
17 Prague, Czech Republic.

18
19 Dated: October 7, 2019

By: _____


Abenicio Cisneros, Esq.